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ACTING ADMINISTRATOR

THE STATE OF SOUTH CAROLINA

DEPARTMENT OF CONSUMER AFFAIRS

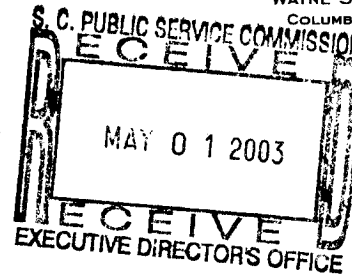
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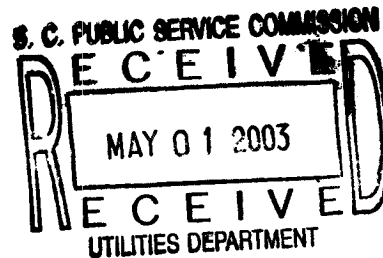
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April 28, 2003

Honorable Gary E. Walsh
South Carolina Public Service Commission
P.O. Drawer 11649
Columbia, South Carolina 29211

Re: Intrastate Universal Service Fund
Docket No. 1997-239-C



Dear Mr. Walsh:

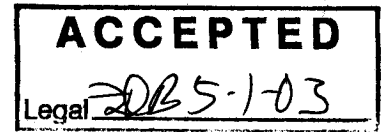
Enclosed please find an original and ten (10) copies of the Consumer Advocate's **Petition for Reconsideration of Order No. 2003-215** in the above referenced case. Copies have been served on all parties listed on the attached Certificate of Service.

Sincerely,

Elliott F. Elam, Jr.
Elliott F. Elam, Jr.
Acting Consumer Advocate

Enclosure(s)
cc: parties of record

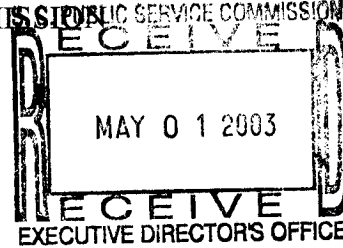
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STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 97-239-C



IN THE MATTER OF:)
)
Intrastate Universal Service Fund)
_____)

PETITION FOR RECONSIDERATION
OF ORDER NO. 2003-215

Elliott F. Elam, Jr., Acting Consumer Advocate for the State of South Carolina, respectfully petitions the South Carolina Public Service Commission (Commission) for reconsideration of its Order No. 2003-215 in the above referenced proceeding and represents as follows:

1. Elliott F. Elam, Jr. is the duly appointed and qualified Acting Consumer Advocate for the State of South Carolina. Pursuant to S.C. Code Ann. § 37-6-604 (2002), and the Commission's Rules of Practice and Procedure, S.C. Code Ann. Regs. 103-830 et seq., (1976), the Consumer Advocate intervened as a formal party of record in Docket No. 97-239-C.

2. In Order No. 2003-215, issued on April 15, 2003, the Commission approved an increase of roughly \$6.6 million in th amount of the intrastate Universal Service Fund (USF), based on requests by 6 incumbent local exchange carriers (ILECs) to lower certain rates and to recover the lost revenues from the fund. The Consumer Advocate received a copy of the Order on April 21, 2003.

3. As permitted by S.C. Code Ann. § 58-9-1200 (1976), and § 1-23-380 (1986), and the Commission's Rules of Practice and Procedure, S.C. Code Ann. Regs. 103-836, 103-842 and 103-881, the Consumer Advocate respectfully petitions the Commission for reconsideration of the following errors. Each error cited constitutes arbitrary and capricious action in violation of

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Chapter 5 Title 58, and Chapter 23 Title 1 of the Code of Laws of South Carolina and is an abuse of discretion. In addition, each error violates the Due Process and Equal Protection Clauses of the Constitutions of the United States and South Carolina.

4. In Order No. 2003-215, the Commission reaffirmed its findings from prior orders concerning the USF. ¶7 at 17-18. The Commission noted that those prior determinations have been affirmed by the Circuit Court, and that it does not believe it is appropriate to change its prior determinations with respect to those issues. As argued in the Consumer Advocate's Brief to this Commission, the Companies case in this phase of the USF proceeding suffers from the same legal infirmities as set forth in the Consumer Advocate's appeal of Commission Order Nos. 98-322, 2001-419, 2001-704, 2001-996 and 2001-1088 which is currently pending before the South Carolina Supreme Court. The legal arguments set forth in the Consumer Advocate's briefs before the Supreme Court are hereby incorporated into this Petition for Reconsideration by reference. These include, but are not limited to, violations of S.C. Code Ann. § 58-9-280(E) regarding failure to properly allocate the costs associated with the local loop to all services; violation of 47 U.S.C. § 254(k) for failure to properly allocate the costs associated with the local loop to all services; and violations of FCC Separations requirements set forth at 47 C.F.R. Part 36.

5. In Order No. 2003-215, the Commission found that the amount of funding requested by the 6 LECs in this case, when combined with the funding received from the first phase, does not exceed 1/3 of the company-specific state USF for each respective company, and therefore, the 6 LECs are not required to update the results of their cost studies for basic local exchange service. ¶6 at 17. This finding is not supported by the evidence in this case. At no time, and in no prior order in this case has the Commission actually determined a total amount for the USF or any company-specific amount for the USF. Therefore, it is error to make a finding that

the amounts requested by the LECs do not exceed 1/3 of the total, when there has been no determination as to what the total is. As argued by the Consumer Advocate in testimony and in his Brief, the Commission must have before it the actual cost for local exchange service, which it does not. The Commission cannot assume that local rates today are not recovering their costs without up-to-date cost evidence, and looking at the Company's total financial results. For this reason, the Companies case in this phase of the proceeding is contrary to the Commission's prior orders, and cannot be approved.

WHEREFORE, PETITIONER PRAYS THIS HONORABLE COMMISSION:

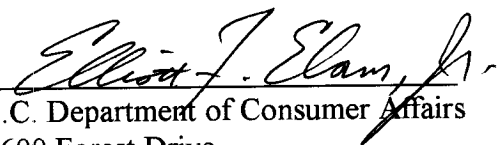
to provide a reconsideration, and an opportunity to be heard on the matters set forth above.

Respectfully submitted,

Elliott F. Elam, Jr.
Acting Consumer Advocate

Hana Pokorna-Williamson
Staff Attorney

By:


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April 28, 2003

CERTIFICATE OF SERVICE

This is to certify that I, Elliott F. Elam, Jr., have served this day the foregoing **Petition for Reconsideration of Order No. 2003-215** upon the persons named below, at the addresses set forth, by deposit in the United States mail, postage prepaid.

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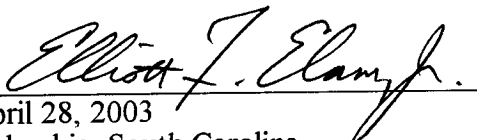
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April 28, 2003
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